

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

GENERAL MOTORS LLC IGNITION SWITCH
LITIGATION

14-MD-2543 (JMF)
14-MC-2543 (JMF)

ORDER NO. 86

This Document Relates to All Actions

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JESSE M. FURMAN, United States District Judge:

**[Regarding the November 20, 2015 Status Conference
and Revised Pretrial Deadlines]**

The Court, having held a Status Conference on November 20, 2015, and a Telephone Conference on November 30, 2015, and having given Lead Counsel for Plaintiffs and counsel for Defendants an opportunity to be heard on the agenda items set forth in the Court's November 17, 2015 Memo Endorsement (Docket No. 1690), issues this Order to memorialize the actions taken and rulings made at the Status Conference.

I. ADDITIONAL STATUS CONFERENCE DATES

Unless and until the Court orders otherwise, the Court will conduct additional Status Conferences on the following dates: **Friday, December 18, 2015**, and **Friday, February 26, 2016**. Further, unless the Court orders or indicates otherwise, all Status Conferences will begin at **9:30 a.m. Eastern Time** and will be held in Courtroom 1105 of the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York.

II. STATUS OF BANKRUPTCY PROCEEDINGS

Consistent with the Court's comments at the Status Conference, the parties should meet and confer regarding compliance of the MDL Bellwether Trial No. 1 (*i.e.*, *Scheuer*) Plaintiff's third amended complaint with the Bankruptcy Court's November 9, 2015 Decision. By **Friday**,

December 4, 2015, New GM should file an amended Motion *In Limine* No. 7 in light of the Bankruptcy Court's November 9, 2015 Decision. The parties should continue to keep the Court apprised of any developments in the Bankruptcy Court, particularly to the extent any such development may affect the bellwether trials.

III. COORDINATION IN RELATED ACTIONS

The parties should continue their coordination efforts in Related Actions pursuant to Order No. 15 (Docket No. 315) and keep the Court apprised of emerging coordination issues through their biweekly joint letter updates (*see* Order No. 8 § V, Docket No. 249) or in separate letter updates, as circumstances require.

IV. BELLWETHER EXPERT DISCOVERY DISPUTES

The parties should meet and confer regarding the propriety of the expert rebuttal reports served by plaintiff in the *Scheuer* case following the depositions of plaintiffs' experts on matters disclosed in those rebuttal reports, and should promptly raise any unresolved issues with the Court. The parties shall discuss at a later date any issues regarding rebuttal experts in MDL Bellwether Trial Nos. 2-6.

V. AMENDED PRETRIAL DEADLINES FOR BELLWETHER TRIAL NO. 1

Consistent with the Court's comments at the Status Conference and the parties' meet and confer, Order No. 85 (Docket No. 1694) is amended as follows:

- Paragraph 1(f) is amended to read as follows: **Daubert Motions:** By no later than **Friday, December 4, 2015**, each side shall be allowed to file one consolidated memorandum of law (not to exceed 50 double-spaced pages) in support of any *Daubert* motions. Responses (not to exceed 50 double-spaced pages), are due by **Monday, December 14**. Replies (not to exceed 20 double-spaced pages) are due by **Monday, December 21**.
- Paragraph 1(i) is amended to read as follows: **Joint Pretrial Order:** The parties shall submit their joint pretrial order (consistent with the Court's Individual Rules and Practices for Civil Cases, except as stated herein or in Order Nos. 78 and 85) no later than **Friday, December 18, 2015, at 12:00 p.m. EST**. No pretrial memoranda shall be submitted for the *Scheuer* trial except upon a showing of good cause.

Except as amended herein, Order No. 85 remains in full force and effect.

VI. EXHIBIT LISTS, DEMONSTRATIVES, AND DEPOSITION DESIGNATION PROCEDURES

Consistent with the Court's comments at the Status Conference, the parties should continue to meet and confer regarding procedures for exhibit lists, demonstratives, and deposition designations for the *Scheuer* trial.

VII. TRIAL WITNESSES

Consistent with the Court's comments at the Status Conference, the parties should continue to meet and confer regarding issues concerning bellwether trial witnesses and raise any disputes with the Court sooner rather than later.

VIII. TRIAL TECH WALKTHROUGH

Consistent with the Court's comments at the Status Conference, the parties should coordinate the trial tech walkthrough with the Court's staff and raise any issues in advance that will require the Court's attention.

IX. TRIAL CONFIDENTIALITY

Consistent with the Court's comments at the Status Conference, the parties should submit a proposed order by **Friday, December 11, 2015**, addressing the treatment of confidential evidence, if any, at the *Scheuer* trial. If the parties are unable to reach agreement, Lead Counsel and counsel for New GM shall submit competing letter briefs (not to exceed five single-spaced pages) setting forth their respective positions and attaching their respective proposed orders, as well as a redline showing the difference between the two orders.

X. ORDER OF THE BELLWETHER TRIALS

Consistent with the Court's comments at the Status Conference, the order of the bellwether trials is hereby amended (*see* Docket Nos. 1217, 1239), such that the *Yingling* case

shall be conducted as Bellwether Trial No. 3, and the *Cockram* case shall be conducted as Bellwether Trial No. 5.

XI. PELLER PLAINTIFFS' AMENDED COMPLAINTS AND DISCOVERY

By no later than **Wednesday, December 16, 2015**, MDL plaintiffs represented by Mr. Gary Peller shall file amended complaints that comply with the Bankruptcy Court's November 9, 2015 Decision. Consistent with the Court's prior orders, Mr. Peller shall meet and confer with Lead Counsel and New GM regarding his clients' request for additional discovery.

XII. PLAINTIFFS' ATTORNEY BILLING RECORDS

By no later than **Friday, February 5, 2016**, Lead Counsel shall submit an initial timekeeping report for the Court's review in order to identify any potential common-benefit billing issues, as well as a proposal for how that review should be conducted.

XIII. MOTIONS FOR LEAVE TO AMEND COMPLAINTS

Motions for leave to amend complaints that the Court previously stayed pending resolution of certain issues by the Bankruptcy Court are hereby denied without prejudice, and are subject to renewal within 21 days after the Court lifts the stay pursuant to Order No. 1 (Docket No. 19) for each respective case. **The Clerk of Court is therefore directed to terminate the following motions:** 14-MD-2543, Docket Nos. 1416–1420, 1422, 1424, 1426–1427, 1432, 1434–1439, 1485, 1527–1529, and 1531; 14-CV-8892, Docket No. 114; 14-CV-9469, Docket No. 104; 14-CV-10006, Docket No. 78; 15-CV-0550, Docket No. 81; 15-CV-2033, Docket No. 76; 15-CV-2089, Docket Nos. 71 and 72; 15-CV-2493, Docket No. 53; 15-CV-3592, Docket No. 53; 15-CV-3641, Docket No. 43; 15-CV-4088, Docket Nos. 45 and 46; 15-CV-4182, Docket No. 35; 15-CV-4768, Docket No. 37; 15-CV-5995, Docket No. 10; 15-CV-6233, Docket No. 14; 15-CV-6452, Docket No. 16; 15-CV-6530, Docket No. 14; 15-CV-6591, Docket No. 16; and 15-CV-6990, Docket No. 15.

XIV. PRETRIAL ORDER FOR SUBSEQUENT BELLWETHER TRIALS

Consistent with Order No. 75 (Docket No. 1305), by no later than **Friday, December 11, 2015**, the parties should submit a proposed order regarding standard pretrial deadlines for the subsequent MDL Bellwether Trials.

XV. BRIEFING REGARDING OTHER SIMILAR INCIDENT EVIDENCE

As discussed at the status conference and on the November 30, 2015 conference call, the parties shall brief the admissibility of specific other similar incident (“OSI”) evidence and related witnesses in the first bellwether trial — including the specific purpose(s) for which that evidence is offered and to which the witnesses will testify — according to the following schedule. Plaintiff shall submit his opening brief, not to exceed thirty-five double-spaced pages, on **December 8, 2015**. New GM shall submit its opposition brief, not to exceed thirty-five double-spaced pages, on **December 17, 2015**. Plaintiff shall submit his reply, not to exceed fifteen double-spaced pages, on **December 21, 2015**. The parties will meet and confer in advance of the briefing schedule in an effort to prioritize the OSI witnesses or to otherwise determine the likelihood that each given OSI witness will be called.

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XVI. REVISED PRETRIAL SCHEDULE

For ease of reference, the following chart summarizes the first bellwether deadlines:

Deadline	Submission	Party or Parties
November 17, 2015	Amended Complaint	Lead Counsel
November 18, 2015	Initial Witness Lists	Both Parties
November 23, 2015	Trial Exhibit Lists	Both Parties
November 24, 2015	Deadline to Re-Depose Plaintiffs' Experts	New GM
December 4, 2015	Last day to file MILs	Both Parties
December 4, 2015	<i>Daubert</i> Motions	Both Parties
December 4, 2015	Dispositive <i>Scheuer</i> Motions	Both Parties
December 4, 2015	Proposed Jury Instructions and Jury Questionnaires	Both Parties
December 8, 2015	Brief re. OSI Evidence	Lead Counsel
December 11, 2015	Will Call & May Call Lists	Both Parties
December 11, 2015	Submissions re. Trial Confidentiality	Both Parties
December 14, 2015	Response to Am. Compl.	New GM
December 14, 2015	Oppositions to Dispositive <i>Scheuer</i> Motions	Both Parties
December 14, 2015 (or earlier)	<i>Daubert</i> Oppositions	Both Parties
December 14, 2015 (or earlier)	Oppositions to final MILs	Both Parties
December 15, 2015	Deadline for Witness Depositions	Both Parties
December 17, 2015	Opposition Brief re. OSIs	New GM
December 18, 2015, at noon	Joint Proposed Pretrial Order and Pretrial Memoranda	Both Parties
December 21, 2015	Replies to Dispositive <i>Scheuer</i> Motions	Both Parties
December 21, 2015 (or earlier)	Replies to <i>Daubert</i> Motions	Both Parties
December 21, 2015 (or earlier)	Replies to final MILs	Both Parties
December 21, 2015	Deposition Designations	Both Parties
December 21, 2015	Reply Brief re. OSIs	Lead Counsel
January 4, 2016	Deposition Counter-Designations	Both Parties
January 6, 2016, at 9 a.m.	Final Pretrial Conference and Beginning of Jury Selection Process	Both Parties

SO ORDERED.

Dated: December 1, 2015
New York, New York


JESSE M. FURMAN
United States District Judge